

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ORION PORTFOLIO SERVICES II, L.L.C.,

Plaintiff,

23-cv-8991 (PKC)

-against-

ORDER

LEXINGTON FINANCE DESIGNATED
ACTIVITY COMPANY,

Defendant.

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CASTEL, U.S.D.J.

The limited subject matter jurisdiction of a district court is best addressed at the outset of a case. It falls upon the Court to raise issues of subject matter jurisdiction sua sponte.

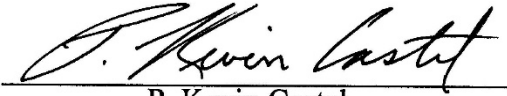
“It is firmly established that diversity of citizenship should be distinctly and positively averred in the pleadings, or should appear with equal distinctness in other parts of the record.” Leveraged Leasing Admin. Corp. v. PacifiCorp Cap., Inc., 87 F.3d 44, 47 (2d Cir. 1996). Where a complaint premised on diversity of citizenship names a limited liability company as a party, the complaint must allege the citizenship of natural persons who are members of the limited liability company as well as the place of incorporation and principal place of business of any corporate entities that are members of the limited liability company. See Platinum-Montaur Life Sciences, LLC v. Navidea Biopharmaceuticals, Inc., 943 F.3d 613, 615 (2d Cir. 2019); Handelsman v. Bedford Village Assocs. Ltd. Partnership, 213 F.3d 48, 51-52 (2d Cir. 2000).

“[A] statement of the parties’ residence is insufficient to establish their citizenship.” Leveraged Leasing, 87 F.3d at 47. There is no diversity jurisdiction if each side includes a citizen or subject of a foreign state. See, e.g., Franceskin v. Credit Suisse, 214 F.3d 253, 258 (2d Cir. 2000).

The Complaint alleges that the sole member of plaintiff Orion Portfolio Services II, L.L.C. “is Anurag Sett, who is a resident of Georgia.” (Compl’t ¶ 8.) Defendant Lexington Finance Designated Activity Company is alleged to be a foreign company with an address in Dublin, Ireland. (Compl’t ¶ 9.)

Within fourteen days of this Order, plaintiff shall file an Amended Complaint that expressly alleges the citizenship of Anurag Sett, as opposed to state of residence. If Sett is a Georgia citizen, the Amended Complaint should specify whether the Georgia at issue is the U.S. state or the country.

SO ORDERED.


P. Kevin Castel
United States District Judge

Dated: New York, New York
October 18, 2023